

PT 02-35

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**MUHAMMAD’S HOLY TEMPLE
OF ISLAM,
APPLICANT**

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

01-PT-0030

Real Estate Tax Exemption

For 1999 Tax Year

**P.I.N. 20-28-322-028, 029, 030, 034, 035,
037, 038, 039, 040**

Cook County Parcels

Kenneth J. Galvin

Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Abdul Arif Muhammad, on behalf of the applicant; Mr. Shepard Smith, on behalf of The Department of Revenue of the State of Illinois.

SYNOPSIS:

This proceeding raises the issue of whether the subject property, identified by Cook County Parcel Index Numbers 20-28-322-028, 029, 030, 034, 035, 037, 038, 039, and 040, (hereinafter the “subject property”) qualifies for exemption from 1999 real estate taxes under 35 ILCS 200/15-40 which exempts, “[a]ll property used exclusively for religious purposes” and 35 ILCS 200/15-125 which exempts parking areas owned by a religious institution.

The controversy arises as follows: On May 11, 2000, Muhammad's Holy Temple of Islam (hereinafter the "applicant") filed a Real Estate Exemption Complaint for P.I.N.S. 20-28-322-028, 029, 030, 034, 035, (a two story building known as the Salaam complex, hereinafter the "complex"), P.I.N. 20-28-322-037 (unidentified property), P.I.N.S. 20-28-322-038 and 039 (parking lots) and P.I.N. 20-28-038-040 (a storage building) with the Board of Appeals/Board of Review of Cook County (hereinafter the "Board"). Dept. Ex. Nos. 3 and 10. The Board reviewed the applicant's complaint and recommended to the Illinois Department of Revenue (hereinafter the "Department") that all requests for exemption for the subject property be denied. Dept. Ex. Nos. 2 and 7.

In February, 2001, the Department accepted the Board's recommendation finding that the entire subject property was not in exempt ownership or exempt use during 1999. Dept. Ex. Nos. 1 and 4. The applicant then filed a timely request for a hearing as to the denials and presented evidence at a formal hearing on March 14, 2002, [Transcript of this date hereinafter "Tr. (1)"] and April 2, 2002, [hereinafter "Tr. (2)"] with Kamal Muhammad, National Secretary of the Nation of Islam, providing oral testimony. Following submission of all evidence and a careful review of the record, it is recommended that the complex be granted a partial exemption, and that the unidentified property, the parking lots and the storage building be denied an exemption for the 1999 tax year.

FINDINGS OF FACT:

1. Dept. Ex. Nos. 1, 2, 3, 4, 7, and 10 establish the Department's jurisdiction over this matter and its position that the subject property was not in exempt ownership or exempt use in 1999.
2. Muhammad's Holy Temple of Islam was incorporated in Illinois on February 4, 1985, under the "Not For Profit Corporation Act." The Articles of Incorporation state, *inter alia*, that the purpose of the corporation is "[T]he indoctrination in the religious principles of Islam on the leading of an Islamic life as taught and exemplified by the Honorable Elijah Muhammad, Messenger of Allah." Tr. (1) pp. 31-32; App. Ex. No. 1.
3. Muhammad's Holy Temple is exempt from Retailers' Occupation Tax in Illinois. Tr. (1) pp. 32-33; App. Ex. No. 2.
4. Muhammad's Holy Temple is a continuation of the "Nation of Islam" which was founded in 1930 in the United States. Minister Louis Farrakhan is currently the leader of Muhammad's Holy Temple. In Clay v. United States, 403 U.S. 698 (1971), the Supreme Court found that beliefs asserting conscientious objection to war, founded on the tenets of the Muslim religion and derived from devotion to Allah as the Supreme Being, came within the "religious training and belief" clause of the military service exemption provision. Tr. (1) pp. 35-38; App. Ex. No. 3.
5. Muslims believe in one God, named "Allah," and in the prophets Abraham, Moses, Jesus and Muhammad, the last prophet. Muslims believe in fasting and in "hajj," a pilgrimage to Mecca that Muslims attempt to make once in their lifetime. Tr. (1) p. 38.

6. The Nation of Islam has approximately 150 mosques and study groups in the United States and around the world, including London, Paris, Canada and Ghana. There are approximately 200,000 members worldwide and up to 10,000 members in Chicago. Tr. (1) pp. 39-40.
7. The Nation of Islam communicates with its members in different ways: meetings and study groups in the mosques; through an official newspaper known as the “Final Call,” considered a religious instrument; through tapes and lectures recorded and sent across the country; and television and radio stations and books. Tr. (1) pp. 40-41.
8. The complex was built with funds donated from Muslim congregations across the world and was completed in 1995. The complex was designed to be a conference center and to provide additional meeting space for the Nation of Islam which was undergoing a period of substantial growth in its congregation throughout the country at that time. Tr. (1) pp. 43-45, 50; App. Ex. No. 4; Dept. Ex. No. 21(2) .
9. The “1996 Affidavit-Certificate for Exempt Real Property,” signed by Kamal Muhammad on February 29, 1996, lists P.I.N.S. 20-28-322-028, 029, 030, 034, and 035, which comprise the complex, as fully or partially exempt properties. The “1997 Affidavit,” signed by Reba Muhammad on January 29, 1997, lists these same P.I.N.S. under the category “property has been leased.” The “Exempt Property Information Sheet” for 1997 lists the lessee/user of the property as “Salaam Enterprises,” the commencement date of the lease January 1, 1997. Tr. (1) pp. 65-71; App. Ex. Nos. 10 and 11.
10. The “1998 Affidavit” lists the five P.I.N.S. which comprise the complex as fully or partially exempt. Tr. (1) pp. 71-75; App. Ex. No. 12.

11. On the “1999 Affidavit,” the five P.I.N.S. which comprise the complex are no longer listed as partially or fully exempt. Tr. (2) pp. 20-21; App. Ex. No. 13.
12. The first floor of the complex contained the Nation of Islam meeting and banquet room. This room was used for religious instruction, press conferences by Minister Farrakhan, and small meetings. There were television monitors in the room so that if a meeting was being held in a larger room, this room could be used for overflow. Clergy were trained in this room. The Nation of Islam does not have a seminary school for clergy. Tr. (2) pp. 52-54, 98-99; App. Ex. No. 15; Dept. Ex. No. 21(9)(10).
13. The first floor of the complex contained a small meeting room with television monitors. The room could hold up to 20 people and was used for small study groups. Study groups, which met every week in the complex, received instruction on Islamic belief and doctrine and moral teaching. Tr. (2) pp. 54, 100-101; App. Ex. No. 15.
14. The first floor of the complex had an office with one computer used for administrative activities. Tr. (2) pp. 54-55; App. Ex. No. 15.
15. The remainder of the first floor contained the area leased to Salaam Enterprises. This area had a kitchen and storage area, a grill, a seating area, and a bakery area where goods were produced and sold. The leased area had a different entrance from the remainder of the building, and was separated from the rest of the building by a solid and glass wall. Tr. (2) pp. 55-57, 89-90; App. Ex. No. 15; Dept. Ex. No. 21(10)(11).
16. The complex was also used by other religious groups and civic and community organizations. No fees were charged but the group using the facility would make a donation to Muhammad’s Holy Temple to defray expenses. In 1999, Muhammad’s University of Islam and the Final Call newspaper used the facility. These groups are

separately incorporated from Muhammad's Holy Temple. Tr. (2) pp. 110-111; Dept. Ex. No. 23.

17. The second floor of the complex contained a large meeting room where national meetings, involving every mosque and study group in the country, were held twice each year. Addresses to the Chicago clergy and the general congregation and meetings with foreign guests were also held in this room. This room was separated from a small meeting room by a removable partition, so that the rooms could be combined. Both rooms were used for planning and strategy sessions for the "Million Man March" and "Million Family March," and for the yearly commemoration of the marches called the "Holy Day of Atonement." Fund raisers for the grammar and high school were held in this room. A 20th anniversary celebration, an annual awards presentation, and a fund raiser for the Final Call newspaper were also held here. Tr. (2) pp. 58-61, 66; App. Ex. No. 15; Dept. Ex. Nos. 21(1)(3)(4)(7)(8), 23(F).
18. The second floor contained a meeting room for the executive board which convened every Wednesday from 10:00 a.m. until 4:00 p.m., an administrative area for the staff that maintained the complex and a private rest area for Minister Farrakhan. Tr. (2) pp. 61-62, 112-113; App. Ex. No. 15; Dept. Ex No. 21(6).
19. The executive board was composed of executives who directed the activities of the Nation of Islam. The board had 13 members. Regional and national meetings of clergy, known as "Laborer's Meetings," were also held at the complex. There were 31 "Laborer's Meetings" held in 1999. These meetings were concerned with how the clergy was disseminating the word of Minister Farrakhan and the Nation of Islam, and included instruction and clarification on religious points. The national

congregation visited the complex primarily for an annual event called “Savior’s Day,” which celebrates the founding of the Nation of Islam. Tr. (2) pp. 41-43, 65, 103-104; Dept. Ex. Nos. 22, 23(F).

20. The second floor contained a kitchen area where food was prepared for fundraisers or events held in the complex. The room was also used for training and food preparation on Islam’s dietary laws. Tr. (2) pp. 62, 94-97, 108-109; App. Ex. No. 15; Dept. Ex. Nos. 21(5), 22, 23.
21. The kitchen area on the second floor was also used to train people on how to wait tables and serve in a restaurant, restaurant management and how to bake and cook for large groups. Training was provided to people in the community, and people who expressed an interest in Islam. This training provided skills for unemployed individuals seeking employment opportunities, people formerly incarcerated, and people who had accepted Islam and wanted to improve their condition in life. One tenet of Islam is to redeem and restore individuals and make them productive members of society. Tr. (2) pp. 43-45, 91-92; App. Ex. No. 22.
22. Friday is a holy day for Islam. Work ceases for two hours and a prayer called “jumaa” is offered. After the prayer, refreshments or appetizers are served. The meeting areas in the complex and the kitchen area were used for this service. Tr. (2) pp. 63-64.
23. On March 16, 1999 and August 19, 1999, workshops addressing the death penalty were held at the complex. The death penalty is significant to Islam’s prison reform ministry because the Nation of Islam is against the death penalty when it is unfairly applied or used on oppressed groups. On March 25, 1999, a fundraiser for Muhammad’s University of Islam was held at the complex. A press conference

discussing Minister Farrakhan's health was held on March 30, 1999. A conference on "unity, solutions and celebration of women," attended by women clergy, was held November 12-14, 1999. Tr. (2) pp. 65-67, 104-105; Dept. Ex. No. 23(F).

24. Muhammad's Holy Temple acquired the parking lots, P.I.N.S. 20-28-322-038 and 039, by quitclaim deed on June 8, 2000. The lots are used for parking by workers at the "Final Call" newspaper, which is nearby, and people attending events at the complex. The lots contain space for 40 vehicles. No fee was charged for parking. Tr. (2) pp. 71-74; Dept. Ex. Nos. 16, 19(2)(4)(7).

25. Muhammad's Holy Temple acquired the storage building, P.I.N. 20-28-322-040, by warranty deed on March 31, 1995. The area was used for storage of chairs, tables, audiovisual equipment and other items used for meetings at the complex. Tr. (2) pp. 70-71, 74, 83; Dept. Ex. Nos. 15, 19(1)(3)(5)(6).

26. In 1999, construction work, including electrical work and reconfiguring the size of the rooms, was started in the storage building in order to turn it into an audiovisual reproduction facility. Tr. (2) pp. 83-85.

CONCLUSIONS OF LAW:

P.I.N.S. 20-28-322-028-029-030-034-035 (the Salaam complex): An examination of the record establishes that the applicant has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting 71.4% of the complex from real estate taxes for the 1999 tax year. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1st Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 ILCS 200/1-3 *et seq.* The relevant provision of that statute which governs the disposition of the Salaam complex in the instant proceeding is found in Section 200/15-40, which states as follows:

All property used exclusively for religious purposes, or used exclusively for schools and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt ...
35 ILCS 200/15-40.

Prior to 1909, the law required that religious property exemptions would be granted only if the party using the property for religious purposes also owned the property. People ex rel. Bracher v. Salvation Army, 305 Ill. 545 (1922). However, this is

no longer the case because statutory changes have eliminated the ownership requirement. *Id.* It is noted that the 1996, 1997 and 1998 “Affidavits-Certificate for Exempt Real Property,” sent by Cook County to the applicant, list the owner of the P.I.N.S. comprising the Salaam complex as “Muhammad’s Holy Temple.” App. Ex. Nos. 10, 11 and 12. The only issue to be decided is whether the complex was actually and exclusively used for religious purposes in 1999.

Property satisfies the exclusive-use requirement of the tax exemption statutes if it is primarily used for the exempted purpose, even though it may also be used for a secular or incidental purpose. McKenzie v. Johnson, 98 Ill. 2d 87, 98 (1983). In People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132, 136-137 (1911), the court noted that, as applied to the use of property, “a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction.” In MacMurray College v. Wright, 38 Ill. 2d 272, 278 (1967), the court stated that “exemptions will be sustained if it is established that the property is primarily used for purposes which are reasonably necessary for the accomplishment and fulfillment of the [religious] objectives, or efficient administration of the particular institution.”

I conclude that the complex was used for public worship and religious instruction, as contemplated by the court in McCullough. There was testimony at the hearing that study groups met every week in the complex. Tr. (2) p. 101. “What a study group does is interpret the practical understanding of Islamic belief and doctrine, and usually it involves personal relation with the doctrine. So a lot of moral teaching, instruction is involved in the study group.” Tr. (2) p. 54. The weekly prayer known as “jumaa” was

offered on Friday, Islam's holy day, in the complex. Tr. (2) pp. 63-64. "Savior's Day," a religious event which commemorates the founding of the Nation of Islam was also celebrated in the complex. Tr. (2) p. 65.

The objective of Muhammad's Holy Temple of Islam, as stated in their Articles of Incorporation, is "[T]he indoctrination in the religious principles of Islam on the leading of an Islamic life ..." App. Ex. No. 1. It is reasonable to conclude that in order to accomplish this objective, clergy must be trained and must be able to assemble to receive instruction and clarification on religious doctrine. Mr. Muhammad testified that Muhammad's Holy Temple does not have a seminary school, and one of the purposes of building the complex was to provide an area for instruction of the clergy. Tr. (2) pp. 53, 127. There were 31 regional and national meetings of clergy, known as "laborers," held in the complex in 1999. These meetings were concerned with how the clergy was disseminating the word of Minister Farrakhan and the Nation of Islam. Tr. (2) pp. 103-104.

Additionally, the executive board met every Wednesday from 10:00 a.m. to 4:00 p.m. in the complex. The executive board, composed of 13 members, directed the activities of the Nation of Islam. Tr. (2) pp. 41, 112-113. A conference of women clergy was held in the complex on November 12-14, 1999. Tr. (2) pp. 66-67. Two workshops addressing the death penalty were held in the complex in 1999. The issue of the death penalty and its application to oppressed people is significant to Islam's prison reform ministry. Tr. (2) pp. 104-105. The complex was used for fundraisers for Muhammad's University of Islam, for the applicant's grammar and high school, and for the Final Call newspaper. Tr. (2) pp. 60-62. The kitchen in the complex was used for training on

Islam's dietary laws. Tr. (2) p. 62 I conclude that these meetings and activities were necessary for fulfillment of the applicant's objective of indoctrination into the religious principles of Islam.

Counsel for the Department argued at the evidentiary hearing that the training in waiting tables, cooking and restaurant management, which took place in the kitchen on the second floor, was "vocational" rather than religious. Tr. (2) pp. 92-93. Mr. Muhammad countered this argument by testifying that the spiritual side of Islam is balanced by its practical side and "we believe that it's our duty to train people to become a productive part of society." Tr. (2) pp. 93-94. Mr. Muhammad testified that the complex was used to "make plans and strategy for how to implement the Million Man March and the Million Family March," and for fundraisers for these events. Tr. (2) pp. 60, 62. There was no testimony, however, on how these activities relate to the religion of Islam. Similarly, press conferences held at the complex, including press conferences on the health of Minister Farrakhan, are not related to any religious purpose as defined in the case law. In balancing the religious activities at the complex against the secular and incidental uses of it, I conclude that the complex, excluding the area leased to Salaam Enterprises, was primarily used for religious purposes in 1999.

The lease with Salaam Enterprises began on January 1, 1997. The area was leased for \$24,000/year. The leased area contained a kitchen, storage area, grill, a seating area and a bakery where goods were produced and sold. Tr. (2) pp. 55-57. The leased area is separate from the rest of the complex by a glass and solid wall. Tr. (2) pp. 89-90.

It is noted that all five P.I.N.S. comprising the Salaam complex were exempt from taxation prior to the commencement of the lease. App. Ex. Nos. 10 and 11. When the

“1997 Affidavit-Certificate for Exempt Real Property” was completed by Reba Muhammad, she listed the five P.I.N. numbers comprising the complex as “leased” without any notation that only a portion of the complex was leased. Tr. (1) pp. 65-75; App. Ex. No. 11. In the “1999 Affidavit,” the five P.I.N. numbers were no longer listed by Cook County as partially or fully exempt property owned by Muhammad’s Holy Temple. Tr. (2) pp. 20-21; App. Ex. No. 13. The applicant then submitted an “Application for Property Tax Exemptions” to the Board for tax year 1999, in order to clarify that only a portion of the property was leased.

Section 200/15-40 of the Property Tax Code exempts all property used for religious purposes, that is “not leased or otherwise used with a view to profit.” 35 ILCS 200/15-40. Mr. Muhammad testified that at the time the lease was entered into, the applicant was experiencing some “financial problems” and the lease was signed in order “to bring in some revenue to help maintain the building.” “The building needed some extra money to maintain it. So we decided to lease a portion out to a business...” Tr. (2) pp. 26-27. In closing argument, counsel for the applicant maintained that the leased area should also be exempt because “it’s related to the primary religious purpose of keeping Muhammad’s Holy Temple Salaam complex up and running so that it can continue its religious instruction of its clergy and its church administration.” Tr. (2) p. 129.

Case law does not support the applicant’s argument. Whether property is exempt from taxation is determined from its primary use. People ex rel. Marsters v. Rev. Saletyni Missionaries, Inc. 409 Ill. 370 (1951). The purpose of the constitutional provision authorizing exemption from taxation and legislation pursuant to that authority is to provide that property in actual use by a religious organization shall not be required to

contribute to the support of government. This purpose does not extend to the exemption of property that is leased to produce an income or otherwise used for profit, although the income or profit is applied to maintaining the religious organization. “If real estate is leased for rent, whether in cash or in other form of consideration, it is used for profit.” While the application of the income to religious purposes may aid the religion, the primary use of the land is for profit. People v. Withers Home, 312 Ill. 136 (1924). Where property is leased for profit, it is immaterial whether the income derived is used for religious purposes. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1st Dist. 1983).

The primary purpose of the area in the complex leased to Salaam Enterprises is for profit and there is no statutory basis for exempting it. At the evidentiary hearing, counsel for the applicant stated that the leased area constituted 5,800 square feet or 23% of the Salaam complex. Tr. (2) p. 130. No evidence was offered as to how the 23% figure was determined. In the “1997 Affidavit-Certificate for Exempt Real Property,” the “gross building area” of the complex is listed as “20,300 square feet.” App. Ex. No. 11. The leased area, at 5,800 square feet, would constitute 28.6% of the complex, not 23%. Accordingly, I conclude that 71.4% (100.00% less 28.6%) of P.I.N.S. 20-28-322-028, 029, 030, 034, and 035 should be exempt from property taxes for the 1999 tax year and 28.6% would not be exempt from taxes in 1999.

P.I.N. 20-28-322-037: This P.I.N. is not listed on either the 1996, 1997, 1998 or 1999 “Affidavits-Certificate for Exempt Real Property.” App. Ex. Nos. 10, 11, 12 and 13. A deed in trust shows that property with “tax no. 20-28-322-037” was put in trust at American National Bank and Trust Company, trust number 104185-07, on December 7,

1987. Dept. Ex. No. 23 The trust document was not entered into evidence. No affidavit specifically concerning this P.I.N. was admitted into evidence although one affidavit covering P.I.N.S. “20-28-322-028 to 037-0000” signed by Kamal Muhammad on January 3, 2000, was submitted to the Department in the application process. Dept. Ex. No. 23, pp. 12-13. On this affidavit, there is no information that is specific to P.I.N. 037 or the use of the property.

Mr. Muhammad was asked about P.I.N. 037 on cross-examination and he responded as follows:

As far as my recollection goes, 037 was a number that was sent to us from the County Assessor’s Office, I believe, if I remember right. And it was not a number that I saw on any of our properties, but they told us that it was a compilation of maybe three or four – three numbers, I think, like, 038, 039, 034, 037. I think that’s what they told us, from my recollection. That’s the best I remember it. Tr. (2) pp. 87-88.

When asked about his affidavit of January 3, 2000, Mr. Muhammad stated: “I remember that 037 was a concern, but I don’t remember if we talked about it in that particular affidavit or not.” Tr. (2) p. 89. No questions were asked of Mr. Muhammad on redirect and, accordingly, no further information on P.I.N. 037 was offered. Tr. (2) p. 114.

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1st Dist. 1987). Illinois courts have placed the burden of proof upon the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d

678 (4th Dist. 1994). There was insufficient testimony and evidence presented at the evidentiary hearing for me to conclude that P.I.N. 037 was used exclusively for religious purposes. Accordingly, it is recommended that P.I.N. 20-28-322-037 should not be exempt from 1999 real estate taxes.

P.I.N. 20-28-322-038 and 20-28-322-039: These two P.I.N.'s contain a parking lot used by workers at the "Final Call" newspaper and by people attending events at the Salaam complex. The lots contain space for 40 vehicles and no fee was charged for parking. Tr. (2) pp. 71-74.

The statute that governs the disposition of the parking areas in the instant proceeding is Section 200/15-125 of the Property Tax Code which states as follows:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code, and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.
35 ILCS 200/15-125.

Muhammad's Holy Temple acquired P.I.N. 20-28-322 038 and 039 by quitclaim deed executed on June 8, 2000. Dept. Ex. No. 17. The applicant is requesting an exemption for the parking lots for tax year 1999, although the property was not owned by the applicant until June 8, 2000. The party seeking an exemption has the burden of proving that the property in question falls within the terms of the statute under which the exemption is claimed. Board of Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Since 35 ILCS 200/15-125 requires ownership of the parking area by the religious institution claiming exemption, and the applicant has failed to prove it owned the property in the tax year at issue, it is recommended that P.I.N. 20-28-322-038 and 20-28-322-039 not be exempt from real estate taxes in 1999.

P.I.N. 20-28-322-040: Muhammad's Holy Temple acquired this P.I.N. by warranty deed on March 31, 1995. Dept. Ex. No. 15. The property was used for storage of "extra chairs, tables, projection equipment, just things that needed to be stored for the next meeting." Tr. (2) p. 83. On cross-examination, Mr. Muhammad testified that during 1999, the storage building was being converted to an "audiovisual reproduction facility" where the applicant's religious tapes and videos would be produced. Tr. (2) p. 84. In order to convert the building, some electrical work was done and "they also did a lot of changing of the paneling on the walls, and they opened out some areas, you know, making some rooms larger by opening the wall in between the two rooms." Tr. (2) pp. 84. Mr. Muhammad was asked in cross-examination when the conversion work began and he responded as follows: "I think it was around fall of 1999, but I'm not exactly sure." Tr. (2) p. 85. No questions were asked of Mr. Muhammad on redirect, so there was no clarification of when the conversion began. Tr. (2) p. 114.

It is noted that there is precedent for the exemption of storage areas. See *i.e.* Our Savior Lutheran Church v. Dep't. of Revenue, 204 Ill. App. 3d 1055 (5th Dist. 1990) (exemption granted for storage of church property including Church records, pews, hymnals, an altar and a cross). However, in the instant case, I am unable to conclude from the testimony if the entire building or a portion of it was used for storage during 1999. It is unclear from the testimony whether storage continued during conversion, and if so, to what extent. The applicant did not request an exemption for the audiovisual reproduction facility and there was no testimony as to exactly which tapes and videos were reproduced. Based on the above, I am unable to determine whether P.I.N. 20-28-322-040 was exclusively used for religious purposes in 1999.

Based on the testimony and evidence in the instant case, I have concluded that 71.4% of P.I.N.S. 20-28-322-028-029-030-034 and 035 should be exempt from property taxes for the 1999 tax year, and that 28.6% of these P.I.N.S. should not be exempt from taxes in 1999, and that the Department's determination that denied the exemption for P.I.N.S. 20-28-322-037, 20-28-322-038, 20-28-322-039 and 20-28-322-040 on the grounds that the property was not in exempt ownership or use during 1999 should be affirmed and these P.I.N.S should not be exempt from 1999 real estate taxes.

ENTER:

Kenneth J. Galvin
Administrative Law Judge

May 13, 2002